

NOMINATION OF EARL L. GAY

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

NOMINATION OF EARL L. GAY TO BE DEPUTY
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

NOVEMBER 18, 2014

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NOMINATION OF EARL L. GAY
TUESDAY, NOVEMBER 18, 2014

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Jon Tester, presiding.

Present: Senators Tester, Portman, and Ayotte.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. I call this Committee on Homeland Security to order. Good afternoon. We are going to convene this afternoon's hearing to consider the nomination of Rear Admiral Earl Gay to serve as Deputy Director of the Office of Personnel Management (OPM).

Rear Admiral Gay, thank you for seeking this position and thanks for being here today. We appreciate your service to this country.

Admiral GAY. Thank you, sir.

Senator TESTER. It should be noted that Rear Admiral Gay has filed responses to his biographical and financial questionnaire. He has answered prehearing questions submitted by the Committee, and his financial statements have been reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which are on file and available for public inspection in the Committee's offices.

Rear Admiral Gay currently serves as Senior Adviser to Director Katherine Archuleta at the Office of Personnel Management. He has been in this position since early this fall. A graduate of the U.S. Naval Academy, Rear Admiral Gay has a distinguished career of service in the United States Navy serving as a naval aviator from 1980 to 2013. With a master's degree in human resources management, Rear Admiral Gay's experience will definitely be an asset as he seeks the No. 2 position in the Federal agency tasked with managing the Federal workforce.

As we heard from witnesses at the hearing of our Subcommittee on the Efficiency and Effectiveness of Federal Programs and the Federal Workforce in May, there are a growing number of significant challenges to our efforts to recruit and retain experienced and skilled Federal employees. These folks are too frequently used by politicians as their punching bag when the budget season rolls around. Their integrity is often questioned. The retirement benefits are targeted, and pay and hiring freezes are often instituted.

At the same time, these same folks, these politicians, also demand an efficient and effective Federal Government. You would never know it by the way they view and often treat the Federal workforce.

Rear Admiral Gay, I would actually like to see us invest a little more time and resources into initiatives that allow agencies to better recruit, cultivate, and retain a quality and experienced Federal workforce. And I am not just talking about Federal employees in Washington. I am also talking about Federal employees on the ground in hard-to-recruit areas, for instance, in the Bakken in Glendive Montana.

Whether you are talking about an engineer at the Bureau of Land Management or a doctor at the Department of Veterans Affairs, there is a job that needs to be done, and oftentimes these agencies need greater flexibility to incentivize recruitment and retention packages for the folks that they really need to do the job.

Today we will also touch upon work done by OPM in carrying out 90 percent of the background investigations for the Federal Government. Along with Ranking Member Portman, Senators McCaskill, Johnson, and others, we have been putting forth a number of ideas to reform the process.

In terms of the security clearance process, I look forward to hearing some of your thoughts on where we are and where we need to go in that vein.

When Senator Portman gets here, we will certainly give him time for his opening statement, but since he is not, I will turn the floor over to you, Rear Admiral Gay, for your opening statement.

TESTIMONY OF REAR ADMIRAL EARL L. GAY, USN (RET.),¹ TO BE DEPUTY DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

Admiral GAY. Thank you, Chairman Tester, Ranking Member Portman, and Members of the Committee for the opportunity to appear before you today. It is indeed an honor for me to be considered as the nominee to be Deputy Director of the Office of Personnel Management, and I want to thank President Obama for nominating me to this important position and Director Archuleta for her support.

I especially want to thank and recognize my wife of 32 years, Ardella, who joins me here today and is a retired, 26-year civilian Federal employee; and our two daughters, Faythe, who is a former naval officer, and Carmen, a pharmacist, collectively known as "Earl's Girls." The fact that I am here today is because of their unwavering love and support.

Growing up in Atlanta, Georgia, my parents instilled in me the importance of education and a sense of civic duty. I chose to embrace a life of service to my country by applying to the U.S. Naval Academy. It was there that I learned the essence of leadership—defining your vision, articulating expectations, and overseeing progress through transparency and accountability. These guiding principles have served me well throughout my career and made me the leader I am today. If confirmed, I will continue to follow these

¹ The prepared statement of Rear Admiral Gay appears in the Appendix on page 17.

principles as I work to ensure that OPM is successful in its efforts to recruit, retain, and honor a world-class workforce for the American people.

Throughout my 33 years in the Navy, I have had the honor to serve my country in various roles. I have deployed overseas, commanded a naval strike group, served as the Commandant of the Naval District Washington, and managed congressional affairs. These opportunities have afforded me the privilege of working with countless dedicated, patriotic public servants—both military and civilian alike. I am excited about the opportunity to continue to lead and learn from the most committed and capable individuals our government has to offer.

If confirmed, I will use my skills in strategic planning and team building to assist Director Archuleta in leading and management of the agency. Under her leadership, OPM has improved our processing of new retirement claims, and we are now completing over 82 percent of cases in 60 days or less. The agency has also made great progress to strengthen our quality oversight controls within our background investigations program, and we continue to provide high-quality investigations for 95 percent of government. I am excited about the opportunity to play a significant role in advancing Director Archuleta's vision and the agency's strategic plan.

Given my military and national security background, Director Archuleta has asked that I focus a significant amount of my time on Federal Investigative Services (FIS), working with the program office leadership and our Administration partners to implement the reforms directed in the President's 120 Day Suitability and Security Review. I have also been asked to take the lead in working with our agency partners on efforts to recruit more veterans into our Federal Government. If confirmed, I look forward to working with Director Archuleta on her initiatives related to strengthening our recruitment efforts of women veterans. We must all ensure that we continue to honor the service of our military men and women, especially those returning from conflicts in Iraq and Afghanistan.

Public service is a noble profession, and we must do all we can to recruit, retain, and honor a world-class workforce and strengthen and improve the services offered by OPM, from resume to retirement and beyond.

Serving as Commander of U.S. Navy Recruiting Command prior to my own retirement, I was able to share my love of country and dedication to public service with young men and women and encourage them to join our ranks. I witnessed over 97,000 patriotic Americans stand like I did so long ago and dare to take an oath and serve their country. I could not have picked a more fitting end to my Navy career, and I believe serving as the Deputy Director of OPM is a natural progression for me to continue to inspire Americans to join the Federal Government and serve their country.

I thank you again for allowing me to appear before you today, and at this time, I would be pleased to answer any questions the Committee may have.

Senator TESTER. Before we get to the questions—and thank you for your testimony, Rear Admiral Gay—I am going to offer Senator Portman the opportunity for an opening statement.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman, and thank you for having this hearing. And, Admiral Gay, congratulations on your nomination.

Admiral GAY. Thank you, sir.

Senator PORTMAN. I hope my friend John Lewis shows up here in a minute to add his accolades to your service to our country. Thank you for your willingness to step up for this new job.

We need you. OPM has got a lot of responsibilities right now. In fact, they are increasing, as the Chairman and I have learned through being on our Subcommittee, and there has not been a Deputy Director, I am told, for 3 years. So it is critical that the President nominated someone, and I am glad he has nominated someone who has the experience and the background to be able to be of immediate value to the leadership team at that agency.

At its core, I think that your job is to recruit, train, and retain this 21st Century Federal workforce, and, again, as the Chairman and I have found out, we have some challenges. A lot of people are retiring. We have a lot of needs, particularly on the technology front, cyber front, that we need to fill.

Health care is a big responsibility, of the Office of Personnel Management. It is both the Affordable Care Act and implementing that, but also existing responsibilities for Federal employees, and so you are going to be charged with a lot, tackling some big management challenges.

On the cybersecurity front, we need better skills to be able to confront the serious threats we have right now to our Federal information technology (IT) systems. I am sure you are well aware of that in your work on the Navy side, but this is a really difficult challenge. Agencies have, we have determined, significant challenges in determining the size and composition of their cybersecurity workforce. We think the way the work is defined needs some work. We need to address that, and we think OPM can play a leading role in that.

There is bipartisan legislation I have introduced with Mike Bennet called "The Cybersecurity Workforce Assessment Act" that we would love to get your input on. And then more generally we have to give the Federal Government the right tools to recruit the best and the brightest and, again, to retain those people.

The Chairman has been working on that. The Federal agencies need the ability to share their qualified candidate lists so that potential hires do not fall through the cracks and I was glad to join the Chairman on his bill, which is called "The Competitive Service Act," to address that very issue. I hope the full Committee will pass that legislation soon, and, again, we would love your input on that legislation. We think it could help your new role.

So we look forward to getting into some questions with you, and, again, thank you for your willingness to step up to serve your country in a little different capacity but an equally important one.

Admiral GAY. Yes, sir.

Senator TESTER. Well, thank you, Senator Portman.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath, so I would ask you, Rear Admiral Gay, to please stand and raise your right hand and attest

in the affirmative at the end. Do you swear that the testimony you are about to give the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Admiral GAY. I do.

Senator TESTER. Let the record reflect that the witness answered in the affirmative. You may be seated.

There are a number of questions that are stock general Committee questions, that are asked to every nominee, standard three questions.

The first one is: Are you aware of anything in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Admiral GAY. No, sir.

Senator TESTER. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Admiral GAY. No, sir.

Senator TESTER. Do you know of any reason, personal or otherwise, that would in any way prevent you from serving the full term of office to which you have been nominated?

Admiral GAY. No, sir.

Senator TESTER. Thank you very much.

I am going to turn the questions over to Senator Portman while I get my throat cleared out, so, Senator Portman, if you would take over.

Senator PORTMAN. Thank you, Senator Tester. And I am going to start on something that actually Senator Tester and I have spent a lot of time on, both in hearings and also through some specific legislation, and that is these background investigation problems that we have had.

The problem that we have identified is that some of the background investigations have not been done properly, that there is a backlog, and if anything, I think we are more concerned than ever because the Federal Investigative Service has just removed this contractor, United States Investigations Services (USIS), from their contract. And this has to be placing enormous demands on the remaining contractors. The other two contractors combined were only doing about 25 percent of the background investigations. So, our concern is heightened even further. If you could answer these questions to the best of your ability, we would appreciate it.

One, do you know how big the current backlog is that was created when the USIS contract was ended?

Admiral GAY. Not the precise number, no, sir, but I can provide that.

Senator PORTMAN. Are you aware that there is a significant backlog?

Admiral GAY. Yes, sir, I am.

Senator PORTMAN. Do you think it is best to manage this transition, both the timeliness of these reports but also the quality of these reports, by bringing on additional contractors? Or would you stay with the contractors who are there?

Admiral GAY. I know for a fact that we have brought on an additional contractor, NT Concepts. Back to the question of quality and

timeliness, quality is first and foremost our major priority, our No. 1 priority.

Senator PORTMAN. On the investigations, do you know if there has been consideration to seek a memorandum of understanding with other agencies that already have background investigation firms on contract to be able to expedite that process?

Admiral GAY. Not specifically, but I know that we are considering other alternatives so that we are not stuck with one major contractor or two. So we plan on looking at market research to make solicitations to diversify our contractor pool.

Senator PORTMAN. Just in general, do you have anything to add to this in terms of the Federal Investigative Service and how we are going to go about having more timely and higher quality reviews?

Admiral GAY. Well, right now, sir, I would ask for a little patience because, as I stated before, the quality and integrity of the background investigations remains the No. 1 priority, and the two companies that took on the USIS absence have increased their capacity, and we are in close coordination with them weekly. I know that we receive weekly updates as they continue to increase their capacity.

Senator PORTMAN. This is going to be a big challenge for you. We look forward to working with you on it, and we hope you will take a look again at some of the work we have done, some of the hearings we have had.

With regard to cybersecurity, I mentioned in my opening statement that this is another issue we have spent a lot of time on. These threats continue to grow, and they are not just growing in terms of the quantity but also the quality of the attacks, and, therefore, we need a highly skilled cybersecurity workforce to be able to deal with them.

One of the things that I have been concerned about in particular—that we do not know what the current capability is of the Federal Government. We have tried to figure out, what skills we have in the current workforce. There was a 2011 U.S. Government Accountability Office (GAO) report that found that agencies are facing significant challenges in this because the size and composition of the cybersecurity workforce is like comparing apples to oranges. There is not a common lexicon on how do you define the work. There are not common job codes. And so agencies are struggling to even know what they have and then certainly what they need in terms of personnel.

So we are looking for some help here, maybe a uniform classification for job functions, specific employment codes, so that agencies can map out the Federal Government's workforce to identify what the skill shortages are and where they might be able to help other agencies if they have a surplus.

The full Committee recently passed an amendment to help with this, and, again, I am working on this proposal with Senator Bennett and others called "The Federal Cybersecurity Workforce Assessment Act."

From your perspective, what are some of the challenges the government faces in terms of cyber workforce needs?

Admiral GAY. Well, as you stated, sir, the cybersecurity area is one of the skill gaps that we must close, and that has been identified. What I plan on doing is to personally engage the Chief Human Capital Officers (CHCO) Council—the CHCOs of each agency—to ensure that they are invoking the correct applications to seek out those with those critical skills. And so from my military background, I am very well aware of and appreciate the importance of cybersecurity. Out in the fleet, it is absolutely vital that we preserve it because to lose it could cause damage or it could be a matter of life or death. So I take it very seriously.

So I am looking forward to getting engaged with those efforts, sir.

Senator PORTMAN. OK. My time has expired, so I want to turn it back to the Chairman, but I do think this is an area where having a new Deputy will be really important, and we want to work with you on this to try to find out what we need and then close that gap as quickly as possible.

Thank you, Mr. Chairman.

Senator TESTER. Thank you, Senator Portman, and once again, it is good to have you here today, Admiral Gay, and a special welcome to your wife. Thank you for coming to this hearing.

I guess the first question would be: Why do you want this job?

Admiral GAY. Well, sir, I have worn the cloth of our Nation since 17, and I retired last December. I am used to being on a team, and I like to work with people that are driven. I just think that this is a natural progression for me to continue to serve my country.

Senator TESTER. So as I referred to in my opening statement, the morale of the Federal workforce it is low. It may be as low as it has ever been. And the question is: There are some issues that revolve around it when you have low morale. Recruiting becomes a problem; retention becomes a problem. And these jobs are important.

You have spent a career in the Navy. Do you have any ideas on what we could do to improve morale or what we could do to better recruit and better retain employees?

Admiral GAY. Well, yes, sir, I do. Again, based on my experience—I will tackle recruiting first and then retention.

In recruiting, I personally have used the USAJOBS website before, and it has vastly improved from the last couple of years. But I think we can get better. I think we at OPM can help the agencies better craft their announcements. Also, in the area of strategic recruitment to find out where the IT specialists are and so on and so forth.

We had the same issues in my previous job. One of the critical occupations was nuclear power, and so we had to go out and seek those pools to see where the talent was at. I think that is one area that I am looking forward to engaging in from my past experience.

As far as retention goes, I think we need to increase employee engagement, empower the employees to make sure that they feel empowered to be a part of the team, and that involves, in my mind, increasing efforts in developing their careers and training, by offering them training opportunities to succeed in the individual agencies.

Senator TESTER. OK. Veteran employment is about 30 percent of the civilian workforce, and it has been rising over the last few years. A lot of credit can be attributed to the Administration's Veterans Employment Initiative, which has the goal of enhancing recruitment and retention and promoting employment opportunities for veterans.

Can you provide an update on that initiative?

Admiral GAY. Yes, sir. As I stated before, that is one of the areas that I am closely, intimately involved with, and we have increased our veterans' new hiring. From 2009 to 2013, it rose from 24 percent to 31 percent. We still have to get better. There are a lot of initiatives out there, and we are currently working with the agencies. We have an Interagency Veterans Employment Initiative Council that meets monthly. One of my assignments is to become co-chair of the working group to advance their efforts.

Senator TESTER. OK. So would it be fair to say you think we are heading in the right direction?

Admiral GAY. Yes, sir. I think the needles are moving in the right direction. That said, through, Director Archuleta in her various travels around the country, we also have noted that there will also be a 57-percent increase in women veterans coming into the workforce.

Senator TESTER. Yes, correct.

Admiral GAY. So we are leaning forward in our efforts. We meet with the women veterans organizations to ensure that all veterans have equal opportunity to come and join our workforce.

Senator TESTER. OK. So in the hiring process of veterans, do you see any major challenges that still need to be addressed?

Admiral GAY. In my opinion, as a new veteran, I plan on ensuring that the veterans better translate their military skills to civilian skills. We are also involved with helping them with hiring and interview training as well.

Senator TESTER. OK. Senator Ayotte.

OPENING STATEMENT OF SENATOR AYOTTE

Senator AYOTTE. Thank you, Mr. Chairman.

I want to thank you, Admiral Gay, and your wife for your willingness to serve and your prior service to the country.

I wanted to followup on what Senator Tester just asked and your last answer. As I understand it, the area that we can also all work on together is that our veterans have incredible skill sets and how do we translate the understanding of those skill sets to a civilian sector position. So some of the things that are being done by our military, whether it is out in places like Afghanistan or even home side, making sure that the civilian sector understands what type of leadership skills that means, what kind of skills and training they got for that, so any thoughts you have on how we can work on that together I think is really important.

Admiral GAY. Yes, ma'am. Right now I think the main impetus is to ensure that the agencies know the skill sets that these veterans bring to the table. As you mentioned, there are a lot.

Senator AYOTTE. Right.

Admiral GAY. Including leadership. Some attempt to quantify leadership, because it is a multiplier. It really is.

Senator AYOTTE. Well, thank you. I appreciate that. I think that is really important given what our veterans can bring from their experiences to our civilian workforce, to the Federal workforce.

I wanted to follow-up on the issue of security clearances, and I know Senator Portman had asked you in particular about the backlog that we have, addressing that backlog of security clearances. And what I wanted to followup on is another question related to the security clearance question, and that is the insider threat. So whether we saw a situation like Edward Snowden or Aaron Alexis, both who happened to work with the Federal Government but in a contract capacity, and as the background clearance system works right now, if you have a Top Secret clearance, you are reviewed every 5 years; Secret is about 10 years; and then Confidential is about 15 years.

One of the things I have introduced with a number of my colleagues on this Committee and outside the Committee has been to introduce the idea of random audits in that process, because right now it is much more a self-reporting-oriented process. But as you know, a lot of things can change in people's lives, even over the course of a 5-year period, and never mind what can change over the course of a 15-year period.

What are your thoughts on how we can work to better—not only address this backlog, which is critical, but also to address the issue of insider threats? I wanted to get your thoughts on the idea of random audits and any other thoughts you have on how we can do better in this regard.

Admiral GAY. Yes, ma'am. The Suitability and Security Clearance Performance Accountability Council (PAC) has come out with 13 recommendations, and the areas that you just spoke of were covered in resolving those issues, including continuous evaluation. And so the Director of National Intelligence (DNI), OPM, the Office of Management and Budget (OMB), and other agency partners are authoring recommendations to improve that. Continuous evaluation is very important, having held a security clearance myself. And also decreasing the periodicity of the secret checks to 5 years, I personally feel that is an important move. So I am quite certain that I will spend a bulk of my time implementing those recommendations, ma'am.

Senator AYOTTE. Great. I appreciate that very much.

And, finally, I just wanted to ask you, Senator Warner from Virginia and I recently co-authored a book chapter together, and the book is actually called "Moneyball for Government." It is about how to make government smaller and smarter by using actually performance data to evaluate how well programs are doing and measuring programs. It is a really simple concept about how we need to measure what works and what does not work in order to know what policies to implement and what investments to make, especially as we look at a constrained environment.

So the GAO released a report in September that reported that a lot of agencies are not using this kind of data to make decisions, but OPM is actually one of the two agencies that has improved its use of performance data. How will you in your role as Deputy Director make sure that OPM is doing all that it can to assure that

it continues to use this performance data and really becomes a role model for other agencies on this?

Admiral GAY. Yes, ma'am. As you stated, OPM is intimately involved with that. We consider ourselves the thought leader for data-driven metrics. So I plan on personally engaging the agency leadership—although Director Archuleta has been very forward in dealing with Cabinet members, I see myself as connecting personally with the other agency leadership to ensure that they have all the tools that they need. There are a lot of tools out there that are available, and so my job is to find out, one, if they know about them and, two, why aren't they using them.

Senator AYOTTE. Great. Well, thank you very much. I appreciate it.

Admiral GAY. Yes, ma'am.

Senator AYOTTE. Thank you.

Senator TESTER. Senator Portman.

Senator PORTMAN. Thank you, Chairman Tester.

I was going to talk a little about health care. I mentioned in the opening that it is one of your big responsibilities at OPM, and particularly in this new role, you are going to be asked to weigh in on a lot of these issues. You administer, as you know, the largest employer-sponsored health care plan in the United States of America, the Federal Employees Health Benefits (FEHB)—and its \$45 billion in annual costs, and 8 million individuals. Healthcare is obviously a very complicated issue, but specifically this plan puts OPM right in the middle of one of the tough issues to manage these days, costs and quality.

One question for you is: Can you give us a sense of your background in this? You go into this job with, again, a great military background, but do you have any background in managing health care programs, in particular managing change or reform efforts within health care?

Admiral GAY. Well, as far as health care is concerned, throughout my career I have been responsible for Sailors and Marines, but not only them but their families as well. And so I am well versed in it.

As far as the meticulous management of health care plans, I have not been involved with that, but I have been involved with oversight and management of budgets and also strategic plans and campaigns. So I think those rich experiences will bode me well as I delve into this new area.

Senator PORTMAN. Admiral, I do not know if you have seen the President's proposal for the Federal Employees Health Benefit Plan, but he has basically said he would like to enable you at OPM to be able to contract out beyond those insurance companies that are currently in the FEHB. The Congressional Budget Office (CBO) has given us two very different scores in the President's last two budgets. The first budget they said it is actually going to cost a lot of money, and the second one they actually said that it is likely to have a savings of about \$300 million. And we have been asking CBO to give us a detailed explanation of that. They really cannot.

So let me ask you this: Are you aware of that? And how do you feel about it? Do you think that is a good idea to permit OPM to

contract with new types of health plans that do not currently participate in the Federal Employees Health Benefit Plan?

Admiral GAY. Yes, sir, I have not read the CBO report—I will read it—but I agree with the proposal.

Senator PORTMAN. Great. I think it sounds interesting, and I think it might give us some opportunities to allow employees some different kinds of plans than are currently there.

I see that John Lewis has arrived. I described you earlier as “my friend John Lewis,” and it is rare that you actually get a visa to come over to this side of the Capitol, so this is a big deal. But welcome, and I will allow the Chairman to give you a proper introduction.

Senator TESTER. Well, I do not know if it will be proper or not, Ranking Member Portman, but I would just say welcome to John Lewis. Welcome to the side where only good and proper things happen in Congress. It is great to have you over here advocating for Rear Admiral Gay. The floor is yours.

OPENING STATEMENT OF THE HONORABLE JOHN LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LEWIS. Well, thank you very much, Mr. Chairman. Thank you, my friend. We have been knowing each other for a long time, and I am glad that you extended me a visa to come over. I am delighted to be here to introduce—and I know he does not need an introduction—Rear Admiral Earl Gay, who was a neighbor of mine. I no longer live in the same neighborhood, but we lived in the same neighborhood for many years, and your parents still live in the neighborhood. And I am honored and delighted to be here to say a few words about this young man, the Presidential nominee for Deputy Director at the Office of Personnel Management.

I apologize for being late. On the House side, we are organizing our committees and trying to go to work.

I frequently run into my neighbor in the airport when he is heading home to visit his proud parents. This young man is very active and very involved. I see him just moving all the time.

He is a proud native of the Venetian Hills neighborhood where I lived for more than 36 years in the same house. And I decided to be closer to the airport, a lovely neighborhood but I wanted to not drive so much on those highways and roads and streets in Atlanta and decided to move.

He graduated from the Naval Academy in 1980 and completed flight training at the Pensacola Naval Air Station the following year. Throughout his career he continued to further his education. In addition to earning a master's degree in financial management from Troy State University, the university—you probably did not attend the site, but it was only 10 miles from where I grew up. When I was 17 years old, I wanted to attend Troy State, but I was denied admission because they did not admit African American students. And to be here today to introduce you as a graduate of Troy University says something about the distance we have come and the progress we have made in laying down the burden of race. So it is a great honor to be here. You also attended the Joint Forces

Staff College and the business school at the University of North Carolina.

Admiral Gay's Navy career took him from Atlanta across the country and around the world, deployed twice to support combat action in the Middle East, and his unit colleagues were repeatedly recognized with the Battle Efficiency "E" Award.

His leadership and experience on the homefront is just as impressive. Rear Admiral Gay was the Navy's congressional liaison officer in the U.S. House of Representatives, after which he was appointed as the 86th Commander of the Naval District Washington and Deputy Commander of the National Capital Region Joint Force Headquarters.

Rear Admiral Gay then moved across the country to San Diego, California, where he commanded the Expeditionary Strike Group 3 before serving as Commander of the Navy Recruiting Command until 2013.

Following his retirement from an esteemed Navy career,

Rear Admiral Gay returned to Washington, DC, to advise the OPM Director, and after three decades, he still wants to contribute more to our great Nation.

Again, I thank you, Mr. Chairman and Senator Portman, for hearing me and allowing me to come here to say just a word and to introduce Rear Admiral Gay, a neighbor and a son of Atlanta, a son of Georgia, to you and to the Members of this Committee. I hope that you will find him to be a strong nominee for the position of Deputy Director of the Office of Personnel Management.

Thank you, and I yield back.

Senator TESTER. Thank you, Congressman Lewis. Thank you for the kind introduction, and you are welcome anytime on this side—providing he has the right paperwork. No, it is good to have you here, and you are welcome anytime.

Mr. LEWIS. Well, thank you for having me, and you all come over to see us sometime.

Senator TESTER. Yes, we will do that. Thank you very much.

Mr. LEWIS. Come by and visit my office. We can offer you some peanuts and a Coca-Cola from Georgia. [Laughter.]

Senator TESTER. Well, Rear Admiral Gay, that was a great introduction by your friend Congressman Lewis.

I have a few more questions, and we talked about this in my office a little bit. It deals with the issue of locality pay where, in some areas of this country, there is much more demand on the workforce. It is harder to get them. One of those areas is the Bakken, which is in eastern Montana and western North Dakota right now, where to get an engineer or to get anybody, it costs more than just about anywhere else in the country. In fact, I think Williston, North Dakota, was the most expensive place to live in the country, believe it or not. So that tells you what wages are.

When I had a hearing out in Sidney, Montana, they were talking about the rent for a one-room apartment that was somewhere between \$2,000 and \$2,500 a month. So it is pretty crazy. So the pay has to reflect that cost of living.

Do you believe you have adequate flexibility to utilize locality pay, to be able to bump it up, to be able to get the people we need

in areas like the Bakken? And the Bakken is not the only place, by the way. There are other areas like that in the country.

Admiral GAY. Yes, sir, locality pay in my opinion would be the long-term solution. A short-term solution, as Director Archuleta visited out in the Minot area, is to use the existing pay flexibilities where the three R's, as we call them, recruitment, retention, and relocation bonuses at one time to retain those great workers. All of those could be done without OPM approval. If that does not help out in those efforts, they can request through the applicable agencies special salary rates. And we found out last night that the Department of Interior has submitted that special salary request to OPM. So we are looking into that, yes, sir.

Senator TESTER. OK. So currently I believe there is a 2,500 Federal employee threshold to be considered a metropolitan area so that you can utilize locality pay. Of course, we are talking about areas that are very rural, where the Federal workers cost more than they should, quite frankly, because of the demand in the private sector.

Can you figure out a way to make locality pay or do you need our help to do that or can you do that through rural or can you do it—how can you do it to make it work in the rural areas?

Admiral GAY. Yes, sir, I think that would require all of the agencies involved, including the Bureau of Labor Statistics (BLS), the Department of Labor, and I am willing to engage in that conversation, sir.

Senator TESTER. OK. The number of Federal workers retiring this year is double from 2009. As many as one-third of the Federal workforce will be eligible for retirement in 2017. That is not very far off. OPM's paper-based system has a significant backlog that leaves retirees waiting a long time, as long as a year, for their retirement paperwork to be processed.

Can you give me an idea on what OPM is doing to modernize the retirement processing system?

Admiral GAY. Yes, sir. Since I have been there, I have had the opportunity to work with Ken Zawodny and ask questions about our efforts at improving that time, decreasing that time. And as part of our strategic IT plan, we are procuring an electronic case management system. We are now in the last stages of the Request for Proposal (RFP) stage, to implement that.

We are also looking at improving our customer service standards because the surveys that we have taken—and we take them seriously—found that those retirees that conduct business online are very satisfied. So we are trying to drive a lot of our customers to the online usage as well.

Senator TESTER. OK. Thank you. Senator Portman.

Senator PORTMAN. Admiral, I want to talk for a second about administrative leave. The GAO released a report recently—it was October—about the Federal agencies that have abused the lack of guidelines, clear guidelines regarding administrative leave. And as you know, administrative leave is paying employees not to work. The GAO report said that the most extended administrative leave is a result of agency adjudication of alleged employee misconduct or criminal activities. So it is for various things, but a lot of it is for misconduct. They also said some of it is for physical fitness ac-

tivities, rest and recuperation for overseas employees. But it looks like from this report a lot of it is, an allegation of misconduct that has not been yet resolved, and so people go on administrative leave. And during that time they get their pay. They also get further accrued time toward their pension and for their vacation time.

Fifty-seven thousand Federal employees were placed on paid administrative leave for a month or longer in fiscal years 2011 through 2013. Four thousand employees were on administrative leave for over 3 months, 3 months to 12 months. Over 260 were on leave for 1 to 3 years. And, again, unlike medical leave, family leave, vacation leave, most of them were on paid administrative leave, according to GAO, for alleged misconduct.

So this seems to be something where OPM needs to get engaged and involved, and, we are looking at this on our Subcommittee, obviously, but it is kind of a backward incentive system.

By the way, that cost is about \$700 million, over \$12,000 per employee.

One, are you aware of this? But, two, do you have any plan to develop new guidance regarding the recording and reporting of paid administrative leave?

Admiral GAY. On the administrative leave, our current policy is unless the member poses a threat on themselves or the work environment, that member is expected to return back to work in a duty status. To me, duty status means being productive.

That said, the leadership of each agency has the inherent authority to manage their employees time. Again, I plan on personally engaging the agencies to find out how we can better provide them tools.

Senator PORTMAN. I like the idea of, while something is pending, having people work if they do not, again, create a danger to others. And one thing this report leads me to wonder is, can we streamline the adjudication process, too. When you have people out of work for months and in some cases a couple years waiting to get some misconduct resolved, it seems like we have a problem on timeliness of resolution of these alleged misconduct investigations.

So what guidance would you as Deputy Director recommend agencies on this topic of adjudicating more quickly?

Admiral GAY. Yes, sir, the performance management system that we have in place is not complicated, and it is based basically on the system that I am accustomed to in the military, and that is holding people accountable for performance: first of all, defining what the plans are and the mission set; second, articulating the expectations on all sides; and, third, throughout the process making sure that you provide feedback to the employees on their performance and documenting that feedback.

If you do those three basic things, I think that we could preclude a lot of the issues, and the tools are there. We provide classroom training. We provide website instruction. And the agencies get together to talk about these. So that is one area that I plan to get personally involved with, speaking with some of the agency leadership on, because the tools are there, sir.

Senator PORTMAN. Great. Well, thank you for coming before us today and answering these questions, and your willingness again to step forward and serve your country again, this time in a little

different capacity. I found it particularly interesting, as someone who is now in his late 50s, that our friend John Lewis called you a "young man" twice.

Admiral GAY. Yes, sir. He is an American icon and one of my personal heroes.

Senator PORTMAN. He is an icon. But I thought that was very nice of him to call people of our generation "young men." But we are glad that a man like you is willing to step forward to take on this task. And as I said, there are lots of challenges. You are jumping into a really difficult situation with all the potential retirements and actual retirements that the Chairman talked about, and the difficulty of attracting some of the talent to deal with the cybersecurity issue, and then some of the other issues we talked about that are just endemic to government where health care and all the other benefit programs, but also how do you be sure that the taxpayers are getting their money's worth. So we look forward to working with you on these and other issues.

Thank you, Mr. Chairman.

Senator TESTER. Thank you, Senator Portman.

I just want to followup just a little bit on the administrative leave stuff, because I do not think it is going to happen unless you are very proactive on it. I think the figures that Senator Portman put out, \$12,000 per person of the ones who got administrative leave, this is the kind of stuff that drives taxpayers crazy and it drives people like Senator Portman and me crazy, too.

The truth is that if you have the tools, I would just say use them. I think these agencies need to be educated on what is right, and if you are paying somebody not to work, there better be a very good reason for it. And I think you gave a couple good reasons, harm to others or themselves; otherwise, they ought to be working.

In closing, I just want to say one thing. For the last 2 years, we have had a chance to work with Senator Portman as Ranking Member on the Subcommittee on the effectiveness and efficiency of government, and I just want to for the record say it has been a pleasure. I do not know what is going to happen in this next Congress, but if I get to be a Ranking Member on a Committee that you are chairing, I look forward to that opportunity. So thank you, Senator Portman.

Senator PORTMAN. Could you indulge me for just a minute?

Senator TESTER. Sure.

Senator PORTMAN. It is funny. I was thinking the same thing earlier, that it has been great working with Senator Tester. He is no-nonsense, kind of gets to the point, calls everybody by their first name except for you, Admiral. You are the first one. That is a Montana thing. And I do not know where I am going to end up, on which Subcommittee, but I hope we will get to work together again. And, if I am fortunate enough to chair one of these Subcommittees, I am going to be lobbying you to come on as the Ranking Member.

Thank you.

Senator TESTER. Well, for the record, I look forward to that, Rob.

In closing, I will just say thank you, Rear Admiral Gay, for appearing before us today, for your opening statement, for your answers to our questions, for your confirmation as OPM Deputy Director.

Without objection, the record will be kept open until 5 p.m. tomorrow for submission of any written questions or statements for the record.

With that, I would say this hearing is adjourned. Once again, thank you.

[Whereupon, at 3:22 p.m., the Committee was adjourned.]

A P P E N D I X

**Statement of Rear Admiral Earl L. Gay, USN (Ret.)
Nominee for the Position of Deputy Director of the U.S. Office of Personnel Management
November 18, 2014**

Thank you, Chairman Tester, Ranking Member Portman, and Members of the Committee for the opportunity to appear before you today. It is an honor for me to be considered as the nominee to be Deputy Director of the Office of Personnel Management and I want to thank President Obama for nominating me to this important position, and Director Archuleta for her support.

In addition, I want to thank Representative John Lewis for introducing me today. He is an American icon and one of my personal heroes. His kind words of support mean the world to me. Thank you!

I especially want to thank and recognize my wife of 32 years, Ardella, who joins me here today and is a retired, 26-year civilian federal employee, and our two daughters, Faythe, who was also a Navy officer, and Carmen—collectively known as “Earl’s Girls.” The fact that I am here today is because of their unwavering love and support.

Growing up in Atlanta, Georgia, my parents instilled in me the importance of education and a sense of civic duty. I chose to embrace a life of service to my country by applying to the U.S. Naval Academy. It was there that I learned the essence of leadership-- defining your vision, articulating expectations, and overseeing progress through transparency and accountability. These guiding principles have served me well throughout my career and made me the leader I am today. If confirmed, I will continue to follow these principles as I work to ensure that OPM is successful in its efforts to recruit, retain and honor a world-class workforce for the American people.

Throughout my 33 years in the Navy, I have had the honor to serve my country in various roles. I’ve been deployed overseas, commanded a naval strike group, served as the Commander of the Naval District Washington, planned and executed a historic presidential inauguration, and managed congressional affairs. These opportunities have afforded me the privilege of working with countless dedicated, patriotic public servants – both military and civilian alike. I am excited about the opportunity to continue to lead and learn from the most committed and capable individuals our government has to offer.

If confirmed, I will use my skills in strategic planning and teambuilding to assist Director Archuleta in leading and management of the agency. Under Director Archuleta’s leadership, OPM has improved our processing of new retirement claims and we are now completing over 82% of cases in 60 days or less. The agency has also made great progress to strengthen quality oversight controls within our background investigations program and we continue to provide high-quality investigations for 95% of government. I am excited about the opportunity to play a significant role in advancing Director Archuleta’s vision and the agency’s strategic plan.

Given my military and national security background, Director Archuleta has asked that I focus a significant amount of my time on Federal Investigative Services, working with the program

office leadership and our administration partners to implement the reforms directed in the President's 120 Day Suitability and Security Review, recent legislation and elsewhere. I have also been asked to take the lead in working with our agency partners on efforts to recruit veterans into our federal government. If confirmed, I look forward to working with Director Archuleta on her initiatives related to strengthening our recruitment efforts of women veterans. We must ensure that we continue to honor the service of our military men and women, especially those returning from conflicts in Iraq and Afghanistan.

Public service is a noble profession and we must do all we can to recruit, retain, and honor a world-class workforce and strengthen and improve the services offered by OPM, from resume to retirement and beyond.

Serving as Commander of U.S. Navy Recruiting Command prior to my own retirement, I was able to share my love of country and dedication to public service with young men and women and encourage them to join our ranks. I witnessed over 97,000 patriotic Americans stand like I did so long ago, to take an oath and serve their country. I could not have picked a more fitting end to my Navy career and I believe serving as the Deputy Director of OPM is a natural progression for me to continue to inspire Americans to join the federal government and serve their country.

Thank you again for allowing me to appear before you today. At this time, I would be pleased to answer any questions the Committee may have.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
Name of Position	Date of Nomination
Deputy Director Office of Personnel Management (OPM)	September 18, 2014

<i>Current Legal Name</i>			
First Name	Middle Name	Last Name	Suffix
EARL	LENELL	GAY	

<i>Addresses</i>					
Residential Address (do not include street address)			Office Address (include street address)		
			Street: 1900 E Street NW		
City: Washington	State: DC	Zip: 20004	City: Washington	State: DC	Zip: 20415

<i>Other Names Used</i>						
First Name	Middle Name	Last Name	Suffix	Check if Name Same	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1958	Atlanta, Georgia

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Ardella	Collins	Gay	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check if Middle Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
Ardella	Rebecca	Collins		<input checked="" type="checkbox"/>	Est <input type="checkbox"/> June 1954	Est <input type="checkbox"/> November 1982
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
Faythe	Lamar	Williams	
Carmen	Ellese	Gay	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
U.S. Naval Academy	Service Academy	July 1976	May 1980	BS	28 May 1980
Troy State University	University	June 1994	June 1995	MS, Human Resources Management	June 1995
U. S. Air War College	Military College	June 1994	June 1995	N/A	
Joint Forces Staff College	Military College	September 2005	November 2005	N/A	
National Defense University CAPSTONE	Joint Professional Military Education	April 2009	June 2009	N/A	
University of North Carolina Chapel Hill	Flagler Business School	June 2009	June 2009	Certificate for completion of a strategic planning course	June 2009

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) "present" box if still employed)
Federal Employment	Office of Personnel Management	Senior Advisor	Washington, DC	September 2014	Present
Consultant	Trivantis Corporation	Consultant	Cincinnati, OH	July 2014	August 2014
Unemployment				December 2013	June 2014
Active Military Duty	U.S. Navy Navy Recruiting Command	Commander/ RADM (U)	Millington, TN	August 2011	November 2013
Active Military Duty	Expeditionary Strike Group Three (ESG-3)	Commander/ RDML	San Diego, CA	July 2009	August 2011
Active Military Duty	National Defense University CAPSTONE	Student/ RDML	Washington, DC	April 2009	June 2009
Active Military Duty	Armed Forces Inaugural Committee (AFIC)	Deputy Chairman/ RDML	Washington, DC	July 2008	April 2009
Active Military Duty	Naval District Washington	Commander/ RDML	Washington, DC	August 2007	July 2008
Active Military Duty	Navy Office of Legislative Affairs U.S. House of Representatives	Director/ CAPT(0-6)	Washington, DC	December 2004	August 2007
Active Military Duty	USS Belleau Wood (LHA-3)	Commanding Officer/ Executive Officer CAPT(0-6)	San Diego, CA	May 2001	December 2004

Active Military Duty	Helicopter Anti-Submarine Squadron Light (HSL)-41	Commanding Officer/ CAPT(0-6)	San Diego, CA	April 2000	May 2001
Active Military Duty	USS Boxer (LHD-4)	Air Boss/ CDR (0-5)	San Diego, CA	February 1998	April 2000
Active Military Duty	HSL-43	Commanding Officer/ Executive Officer CDR (0-5)	San Diego, CA	July 1995	February 1998
Active Military Duty	U.S. Air War College	Student/ CDR (0-5)	Maxwell AFB, AL	June 1994	June 1995
Active Military Duty	U.S. Forces Command HQs	Joint Plans Officer/ LCDR (0-4)	Atlanta, GA	January 1992	June 1994
Active Military Duty	HSL-43	Department Head/ LCDR(0-4)	San Diego, CA	July 1990	January 1992
Active Military Duty	HSL-41	Instructor Pilot/LT (0-3)	San Diego, CA	July 1987	July 1990
Active Military Duty	HSL-35	Fleet Pilot/ LT (0-3)	San Diego, CA	August 1984	June 1987
Active Military Duty	HSL-31	Student/ LT (0-3)	San Diego, CA	December 1983	August 1984
Active Military Duty	Naval Air Station Fallon	Search & Rescue Pilot/ LTjg(0-2)	Fallon, NV	January 1982	November 1983
Active Military Duty	Naval Air Station Pensacola, FL	Student Pilot/ ENS(0-1)	Pensacola, FL	November 1980	December 1981
Active Military Duty	Navy Recruiting District Atlanta	Officer Recruiter	Marietta, GA	May 1980	November 1980
Service Academy	U.S. Naval Academy	Student/ Midshipman	Annapolis, MD	July 1976	May 1980
Naval Academy Prep School	U.S. Naval Academy Prep School	Student/ Midshipman Candidate	Newport, RI	June 1975	June 1976

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
National Defense University	Board of Visitors	July 2009 <input type="checkbox"/> Est	July 2011 <input type="checkbox"/> Est <input type="checkbox"/> Present

4. Potential Conflict of Interest

(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. NONE

(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity. NONE

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Awarded Congressional Appointment to U.S. Naval Academy, Annapolis, MD 1976
 Awarded NAACP Roy Wilkins Man of the Year, Outstanding Community Service 1994
 Inducted to the Boys & Girls Hall of Fame 2009

Military Medals for personal achievement

Distinguished Service Medal 2013
 Legion of Merit (4) 2004 / 2007 / 2008 / 2011
 Defense Meritorious Service Medal (2) 1994 / 2009
 Meritorious Service Medal (4) 1998 / 2000 / 2001 / 2002
 Joint Service Commendation Medal 1993
 Navy/Marine Corps Commendation Medal (3) 1990 / 1990 / 1991
 Navy/Marine Corps Achievement Medal 1987
 Naval Aviator (Pilot) 1981
 Surface Warfare Officer 2004

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Navy Federal Credit Union	July 2007 - July 2009	Volunteer Board of Advisors
National Naval Helicopter Association (NHA)	May 1982 - present	Member
National Naval Officers Association (NNOA)	May 1980 - present	Member
U. S. Naval Academy Alumni Association	May 1980 - present	Member

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

NO

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

NONE

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

NONE

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
From the Admiral	Navy Recruiter Magazine	August 2013

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Change of Command/ Retirement Speech	Navy Recruiting Command Millington, TN	August 29, 2013
Sailor of the Year Dinner Remarks	Navy League of the United States, Memphis Council Memphis, TN	April 18, 2013

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Testimony</u>
Welcoming/Arrival Remarks	Navy Recruiting Command Millington, TN	July 2011
Boys and Girls Club of America Alumni Hall of Fame Induction Remarks	Boys and Girls Club of America San Francisco, CA	March 2009
"The New DHS Headquarters at St. Elizabeths: Local Business Opportunities"	Rayburn House Office Building, Room 2167, U.S. House Subcommittee on Economic Development, Public Buildings and Emergency Management, Washington, DC	December 12, 2007

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) NO
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? NO
- Have you been charged, convicted, or sentenced of a crime in any court? NO

- Have you been or are you currently on probation or parole? NO
- Are you currently on trial or awaiting a trial on criminal charges? NO
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?
NO

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known). N/A

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: Yes / No
 - 2) Firearms or explosives: Yes / No
 - 3) Alcohol or drugs: Yes / No
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: Yes / No
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
 - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: Yes / No
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: Yes / No
- H) Provide a description of the sentence:
- I) Were you sentenced to imprisonment for a term exceeding one year: Yes / No
- J) Were you incarcerated as a result of that sentence for not less than one year: Yes / No

- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: Yes / No
- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

NO

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

NO

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

YES

<u>Name of Agency/Association/ Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
U.S. Navy Expeditionary Strike Group Three	Between December 2009- June 2010	Allegation by one of my subordinate commanding officers that the several documented counseling sessions (6) and Letters of Instruction (3) I provided to address his leadership deficiencies and poor judgment, which resulted in three separate electrocution incidents that seriously injured five Sailors, were excessive and created a hostile environment	Complaint dismissed by my supervisor following an investigation that found the claim to be unsubstantiated and without merit

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

NO

12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

NO

14. Outside Positions

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Carl R. Hooy

This 22nd day of OCT, 2014

REDACTED

United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

OCT - 3 2014

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Earl L. Gay, who has been nominated by President Obama for the position of Deputy Director, Office of Personnel Management.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "David J. Apol".

David J. Apol
General Counsel

Enclosures

REDACTED

Ms. Kamala Vasagam
General Counsel & Designated Agency Ethics Official
Office of Personnel Management
1900 E St., NW
Washington, DC 20415

Dear Ms. Vasagam:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Director of the Office of Personnel Management.

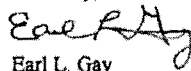
As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my consulting position with the Trivantis Corporation. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which Trivantis Corporation is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I understand that as an appointee I am required to sign the Ethics Pledge (Exec. Order No. 13490) and I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file public financial disclosure reports.

Sincerely,



Earl L. Gay

18 AUG 14

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the
Nomination of Rear Admiral Earl L. Gay, USN (Ret.) to be
Deputy Director of the Office of Personnel Management**

I. Nomination Process and Conflicts of Interest

1. **Why do you believe the President nominated you to serve as Deputy Director?**

I believe the President nominated me based on my distinguished 33 year career in the U.S. Navy and my demonstrated leadership, strategic planning, and teambuilding skills.

2. **Were any conditions, express or implied, attached to your nomination? If so, please explain.**

There are no conditions, expressed or implied, attached to my nomination.

3. **What specific background and experience affirmatively qualifies you to be Deputy Director?**

Throughout my 33 years in the U.S. Navy, I have been deployed overseas, commanded a naval strike group, served as the Commander of the Naval District Washington, planned and executed a historic presidential inauguration, and worked in congressional affairs. I have also served as Commander of U.S. Navy Recruiting Command where I was able to share my commitment to public service with young men and women and encourage them to join our ranks.

I have spent my entire life protecting and serving this great nation. I believe my sustained performance and several executive leadership experiences in the U.S. Navy in strategic planning and operational execution, where I led and managed both military and civilian personnel, uniquely qualifies me to serve as Deputy Director of the Office of Personnel Management (OPM). I am a strong team builder, and I have achieved uncommon levels of success by understanding the importance of organizational management. My collective experience makes me well qualified to be part of OPM's leadership team.

4. **Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Director? If so, what are they and to whom have the commitments been made?**

The only commitments I have made have been to the President and Director Archuleta that I will work to uphold the integrity of the civil service and protect the Merit System.

5. **If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.**

I am not currently aware of any issues, however, should any arise that might create the appearance of or an actual conflict of interest, I will immediately notify the designated Agency Ethics Official, and, if necessary, recuse myself.

II. Background of the Nominee

6. **You have served in a number of leadership positions. How do you believe those experiences have prepared you for the position of Deputy Director of the Office of Personnel Management?**

Since graduating from the U.S. Naval Academy and completing flight training, I have enjoyed a purpose-filled career with continuous increased responsibility, ultimately earning Flag rank and beyond. My last five years before retirement included serving as the Navy's senior spokesman on Capitol Hill, directing all Navy-related legislative issues and coordinating all Navy-related Congressional travel in the U.S. House of Representatives. I was selected by the Chairman of the Joint Chiefs as Deputy Chairman of the 2009 Armed Forces Inaugural Committee where I coordinated and directed the largest public event in our nation's history. I also commanded a Naval Expeditionary Strike Group that comprised 12 large combatant vessels and over 14,000 Sailors and Marines that executed successful combat contingency operations overseas. These unique leadership experiences have allowed me to excel under great demands of accountability and responsibility and will serve me well in this position if confirmed.

Specifically, what aspects of your experience as a military leader would be particularly useful in informing your approach to the civilian personnel programs and issues that you will confront if confirmed?

Throughout my naval career, which included multiple command tours in arduous conditions, I have been a results-driven team builder, known for managing conflict, leveraging individual talent and developing others.

For example, my leadership success led me to be selected to command a \$15 billion dollar, 45-ton national asset, an Assault Aircraft Carrier, the USS BELLEAU WOOD (LHA-3). This carrier consisted of over 5,000 Sailors and Marines and included 35 aircraft and four amphibious vessels that operated in the stern's well-deck. As Commanding Officer of USS BELLEAU WOOD during Operations Enduring Freedom and Iraqi Freedom, I had the monumental task of building a cohesive team to execute a \$100 million dollar complex overhaul, between successive extended deployments, and train its crew for eventual combat operations in the Middle East region.

I began with first identifying the issues and quickly initiating a strategic plan that had to be closely executed to ensure material readiness, which would eventually lead to combat readiness. I relied on my time-tested and proven approach of defining the challenges, formulating a strategic plan, articulating expectations and demanding transparency from all, regardless of rank. Next, I immediately empowered all of my Department Heads and

Senior Enlisted leaders. This proved to be a winning decision that caused a dynamic wave of ownership and enthusiasm throughout the entire ship. Leading from the front and within the bowels of this massive structure, my team and I were able to complete all basic and advanced phase training and certifications in the \$100 million dollar complex overhaul three months earlier than scheduled and deploy two months early to Operation Iraqi Freedom for combat operations.

I followed a similar path in 2009 when I was selected to command Expeditionary Strike Group Three, which consisted of 12 major combatant warships, including four Assault Carriers and 24 subordinate units with over 14,000 Sailors, Marines and civilians. My Strike Group provided direct support of global contingency operations, including combat operations in southwest Asia and Afghanistan. I was tasked with turning around the dismal condition of the West Coast ships and ensuring that 10 of the 12 ships were able to pass an arduous inspection within the next 12 months. For this particular challenge I gathered all of my Commanding Officers and staff together to articulate an honest assessment of where we stood. Together we formulated a complex plan to prepare all ships for their upcoming inspections, focusing first on imminent deployers to the war.

I determined our strategic direction by first analyzing our situation, defining results, articulating expectations and fostering complete transparency. I personally visited each ship on the waterfront at least one to two times a week to see the issues up close. This allowed me to leverage my authority with the civilian contractors, who vastly improved their performance once they realized I was personally involved. The visits also inspired and motivated the troops and my personal involvement provided a boost of confidence and ownership from our embattled Sailors. The material condition of all ships improved drastically and contractors improved their quality of service to our government.

In addition, as the Commandant of Naval District Washington, I led over 2,000 civilian Federal workers, who were a strong, vital component of our Team, in successfully accomplishing the myriad, unique tasks and missions assigned.

If confirmed, these rich experiences will be the foundation for my approach to addressing organizational and program specific challenges related to civilian personnel programs.

III. Role and Responsibilities of the Deputy Director

7. **How do you view the role of Deputy Director of OPM? Have you discussed with Director Archuleta what responsibilities you would have, if confirmed, and how your responsibilities would relate to hers?**

If confirmed as Deputy Director, I will use my skills in strategic planning and teambuilding to assist Director Archuleta in leading and operating the agency. Director Archuleta has also requested that I focus a significant amount of my time on Federal Investigative Services and Human Resources Solutions, along with working with agency staff on OPM's efforts to recruit veterans into the Federal government.

8. **What do you anticipate will be your greatest challenges as OPM Deputy Director, if confirmed, and what will be your top priorities?**

One of the greatest challenges facing OPM is sustaining the highest quality in the background investigations process. The Administration has already taken steps to fully implement the recommendations in the 120 Day Suitability and Security Review Report and Director Archuleta has federalized the final quality review process. Ensuring that these reforms are successfully implemented in a coordinated manner with our agency partners without adverse impact to OPM's day-to-day operations will be my top priority.

Another challenge OPM is working on is improving the outreach and assistance it provides to Federal agencies to help address their human capital needs in order to meet their missions. Examples of OPM's efforts include "untying the knots" in the use of personnel flexibilities, providing training and guidance, and identifying the flexibilities currently available. I look forward to contributing my talents to addressing these challenges.

9. **OPM and the Office of Management and Budget (OMB) both play a role in human capital issues within the Executive Branch. As the Deputy Director of OPM, how would you work with OMB and what do you believe are the respective roles of OPM and OMB with respect to human capital issues?**

As you may know, the President has directed Federal agencies to develop a management agenda that facilitates a smarter, more innovative, and more accountable government for its citizens.

OPM, in working with the Office of Management and Budget (OMB), has identified key focus areas to drive agency performance. However, engagement with agency leadership, employees and union representatives is essential to ensure these ideas are carried out. OPM and OMB should be partners in this effort, and are working to tackle these priorities together.

10. **What role should OPM play in assisting agencies with successful human capital management activities? How could OPM do better? Among other things, do you believe that OPM has the appropriate resources to help individual agencies develop and meet their human capital goals?**

OPM sets human resources policy for the Federal government. Its mission is to recruit, retain, and honor a world-class workforce to serve the American people. Per the OPM Strategic Plan, OPM should serve "as the thought leader in research and data-driven human resource management and policy decision making." It is also OPM's responsibility to "provide leadership in helping agencies create inclusive work environments where a diverse Federal workforce is fully engaged and energized to put forth its best effort, achieve their agency's mission, and remain committed to public service." OPM can always work to improve and update its communication of its roles

and responsibilities to agencies. I believe the President's budget requests the appropriate resources for OPM to meet its mission.

III. Policy Questions

Human Capital Management

11. **The Government Accountability Office (GAO) has included strategic human capital management as a high-risk area for many years and once again included it in the February 2013 High Risk Update (GAO-13-283). Are you familiar with this report and GAO's findings that human capital management is a high-risk area in governmental operations?**

What do you believe are the principal challenges facing the government in the area of human capital management, what do you believe are the most important things that should be done to improve human capital management in the federal government, and what would you do, as Deputy Director, to further this goal? What philosophy and perspective would you bring to OPM regarding federal human capital management?

Yes, I am familiar with this report and GAO's findings that human capital management is a high-risk area in governmental operations. I believe the principle human resources (HR) challenges facing the Federal government are closing the skills gaps for the HR workforce and promoting diversity and inclusion. OPM is working towards implementing a comprehensive HR certification program through HR University, which I believe will aid in achieving the long term goal of improving the quality of HR services government-wide. I also believe OPM's diversity and inclusion initiatives will help achieve these goals. OPM supports diversity and inclusion by helping hiring managers and supervisors develop better outreach and recruitment methods; determine what factors contribute to the retention of a talented workforce; experience cost savings through decreased attrition; and create an inclusive work environment that empowers employees to contribute to their full potential. If confirmed as Deputy Director, I will support Director Archuleta in implementing these, and other, initiatives. I believe that the American people deserve a Federal workforce that is responsive to them and operates efficiently.

12. **Both GAO in its 2013 report and the President in the FY2015 budget (Analytical Perspectives) stress that identifying and addressing critical skills gaps that are undermining agencies' abilities to meet their vital missions is a critical part of strategic human capital planning. Do you agree? What role do you believe OPM plays in helping agencies identify and address critical skills gaps, and how would you, as Deputy Director, approach this issue?**

Yes, I agree that identifying and addressing skills gaps in the Federal workforce is a critical part of strategic human capital planning and should be a priority for OPM. Currently, OPM and the Chief Human Capital Officers (CHCO) Council are working to create a government-wide strategic workforce planning method to identify and close

skills gaps at the enterprise and agency levels. Given that skills gaps are a long-standing challenge for Federal agencies, OPM is also focusing on finding data-driven solutions, which includes conducting regular data-driven analysis to recruit and reach all segments of society. This type of strategic recruitment will allow the Federal government to connect in ways that are smart, efficient, capture where the jobs really are, and address common needs across the government and among customer agencies. As Deputy Director, I will work to continue these efforts.

13. **Performance metrics are essential for effective oversight and holding agencies accountable for results. What metrics do you feel are appropriate for gauging both OPM's and other agencies' human capital efforts?**

The Federal Employee Viewpoint Survey (FEVS) is a valuable tool that OPM provides to agencies that can be used to evaluate agencies' human capital efforts. The data from the FEVS assists agencies with an understanding of employee opinions on a wide variety of topics, including work environment, leadership, and job satisfaction.

14. **According to the Employee Viewpoint Survey and the Partnership for Public Service's Best Places to Work rankings, overall employee satisfaction government-wide has declined in recent years. What do you think are the root causes of this decline and what do you believe you could do if you are confirmed as Deputy Director to help agencies address these issues and improve morale?**

There are a number of factors impacting morale in the Federal workforce, including past pay freezes, sequestration, budget cuts, and furloughs. As Deputy Director, I will continue OPM's work with agencies to make sure they have the tools necessary to engage their workforce. OPM now provides agencies with more access to FEVS results through the UnlockTalent.gov dashboard, which provides a deeper dive into FEVS data sets. OPM works closely with the CHCO Council and Labor Management Council to identify and share best practices. In addition, OPM is implementing more development opportunities through HRU and GovU and more opportunities for innovation with programs such as GovConnect.

15. **The demographics of our nation's workforce have changed and the various generations of workers possess unique values, attitudes, and expectations. Given these differences, how should the employer-employee relationship adapt to these changes in order to build an inclusive work environment that supports employees and best achieves agencies' missions in both the short and long term? What do you believe OPM can do to increase the retention rate of newly-hired employees?**

Diversity and inclusion is an important part of the President's and Director Archuleta's agenda. It is important to have a diverse and inclusive Federal workforce and that effort starts with agency leadership. Agency leaders must set expectations to ensure that each agency is finding qualified individuals so that the workforce reflects America. In the FEVS, OPM has included the New IQ, which consists of 20 questions that are related to an inclusive environment. Agencies can use this information to better assess the

inclusiveness of their workforce and make any necessary improvements. To increase the retention rate of newly-hired employees, OPM must continue to work closely with agencies to support their engagement efforts and provide them with the necessary tools.

16. **What is your opinion about the present capacity of, and the need for improving, the acquisition workforce within the federal government? What should OPM's role be in the development and implementation of a strategic human capital plan for the acquisition workforce, and how do you believe OPM should coordinate its efforts in human capital planning with the efforts of the Office of Federal Procurement Policy (OFPP)?**

Acquisition remains one of the critical skill gaps and is a priority for OPM's strategic human capital efforts. Efforts to close the skill gap include professionalizing the acquisition workforce through development and certification programs. OPM should continue to work with OMB, including OFPP, to close this skill gap government-wide.

17. **What role, if any, should OPM play in ensuring that agencies do not pay contractors to perform work that would be more cost-effective or appropriate to be performed by a federal employee? Conversely, what role, if any, should OPM play in ensuring that agencies utilize contractors to perform work that may be more cost-effective and/or appropriate than utilizing federal employees?**

I believe agencies are best equipped to determine the makeup of their workforce in order to meet their mission. OPM is in a position to assist agencies with workforce planning efforts and, if confirmed, I will encourage agencies to reach out to OPM for any assistance.

18. **Leadership, managerial, and supervisory skills are critical for ensuring agencies fulfill their missions. What is your opinion of the government's processes for getting people with the requisite skills in these areas to enable agencies to function at their best? What are the particular challenges, and what can be done to improve leadership, management, and supervision in government?**

Throughout my 33 year career in the U.S. Navy, I've been fortunate to work with exceptionally talented leaders and be a leader myself. I know that defining the mission, setting expectations, and measuring performance in a transparent manner are essential to having employees and agencies function at their best.

I know that OPM is taking actions to ensure a strong leadership corps, and if I am confirmed, I will be proud to be a part of this effort. Presently, OPM and the White House are leading a cross-agency priority goal focused on "People and Culture," and this goal includes a number of human capital management objectives to build a world-class Federal management team, starting with the Senior Executive Service (SES). Over the course of the next few years, this initiative will achieve interagency improvements to empower the success of the SES.

In addition, OPM has developed multiple tools, guidance documents, programs and courses for leaders, management, and aspiring leaders and managers of agencies, over the past few years. This includes a supervisory training framework and guidance; a managerial development framework and curriculum; an Executive Development Best Practices Guide; and the President's Management Council Interagency Rotations Program.

I believe a challenge facing OPM in this area is ensuring that agencies are aware of the resource OPM can be for them, and if I am confirmed as Deputy Director, I look forward to working with the Director to address this issue.

19. **What is your opinion of the current state of labor-management relations within the federal government, and what do you believe the Deputy Director of OPM can and should do to improve those relations?**

The state of labor-management relations has improved since the President issued his executive order establishing the National Council on Federal Labor-Management Relations (Council), of which OPM is a co-chair. While relations are better, there is still opportunity for improvement. As Deputy Director I will work with the Council and OPM's Partnership and Labor Relations Office to build on labor-management relations. While there will not always be agreement on all issues, I am always open to listening to all sides and seeking a consensus.

20. **If confirmed, what steps will you take to maintain constructive relationships with organizations such as the Merit Systems Protection Board (MSPB) and GAO as they conduct studies of merit systems and human capital practices?**

If confirmed, I would work to ensure that OPM continues to be as responsive as possible to requests received from MSPB and GAO as they conduct studies of merit systems and human capital practices.

21. **Federal employees are protected from inappropriate, arbitrary, and prohibited personnel practices, but the federal government's administrative redress system has long been criticized as being overly complex, time consuming, costly, and adversarial. What role can OPM play in improving this system and in helping agencies develop conflict management systems, including alternative dispute resolution (ADR) processes that work to prevent, as well as to resolve, workplace disputes?**

I believe there are a number of tools available for agencies in dealing with workplace disputes. OPM provides training to HR professionals to assist with resolving disputes and guidance to encourage management to enhance employee engagement. In addition, OPM encourages agencies to utilize the resources provided by the Interagency ADR Working Group. OPM should continue to assess needs in this area and work with agencies to ensure they have the tools necessary to resolve workplace disputes.

Recruitment, Retention, and Training

22. **What are your views with respect to the current hiring process within the federal government, and what do you believe should be done to improve it?**

The Administration has made some progress in improving the federal hiring process, but many job-seekers still complain about the tedious process of finding and applying for federal jobs, as well as the amount of time it takes to get through the hiring process.

What role should OPM play in reforming the recruitment and hiring process? If confirmed, how do you plan to continue to address these issues raised by job-seekers, applicants, and others? Do you believe further legislation is needed? If so, what kind of legislation would you propose?

I believe OPM's current system reflects its ongoing efforts to recruit, retain, and honor a world class workforce to serve the American people. However, I realize that this system is not perfect, and that is why I support OPM's efforts as part of the People and Culture pillar of the President's Management Agenda on finding and hiring the best talent. In support of these efforts, OPM's Recruitment and Hiring, Recruitment and Outreach, Hiring Policy and Classification and Assessment Policy offices have held multiple interagency sessions, including an Interagency Classification Policy Forum (CPF) focused on helping agencies "untie the knots" experienced around the application and challenges of the General Schedule (GS) Classification System.

I understand that in May of this year, Classification and Assessment Policy (CAP) held an Interagency Classification Policy Forum to identify several agency needs, including guidance and/or training to support HR professionals in the application of the GS Classification System. The goal was to identify "pain points," potential ideas and best practices to address challenges encountered during the application of the GS Classification System.

Based on feedback OPM receives from agencies, I believe OPM should draft a proposed plan of action which identifies champions and lead agency(ies) to pilot potentially beneficial ideas and agency best practices.

23. **The current economic and budgetary challenges facing the federal government are considerable, and fiscal restraint is clearly part of the response to those challenges.**

- A. Given this situation, how can the federal government make the critical investments needed to attract, select, develop, motivate, and retain a highly qualified and productive federal workforce?**

Agencies have considerable discretionary authority, within budget limitations, to provide additional compensation to support their employee recruitment and retention efforts. Tools such as recruitment, relocation, and retention incentives; student loan repayments; and the flexibility to set pay for new hires above the minimum rate can be used by

agencies without OPM approval to respond to staffing difficulties for General Schedule employees. Other compensation flexibilities, such as special salary rates and the critical position pay authority, can be approved to provide higher pay rates so the government is able to recruit and retain employees in mission critical, high demand occupations. In addition, it is important for managers to use the tools they presently have to recognize strong performance and encourage retention, such as performance awards and other forms of recognition.

Further, it is important that whenever an employee is brought into the Federal government and performs well that the Federal government does everything we can to seek to retain that individual. Part of this responsibility lies in making sure that person feels engaged, and the FEVS provides a wealth of information that can assist agencies in unlocking talent and addressing employee concerns. Another part is making sure the employee is fulfilled by the training opportunities that are available to them.

OPM has expressed its commitment to working with agencies on the strategic and judicious use of these and other human resources flexibilities to address workforce challenges and if confirmed I will support these efforts.

B. With regard to OPM's own workforce, how would you seek to maintain a highly effective and motivated workforce, given our current budgetary challenges? How do you plan on monitoring spending at OPM when it comes to attracting a quality and productive workforce?

I believe OPM should use the tools outlined in response to Subsection (A) of this question for its own workforce.

A challenge in rewarding employee performance and providing training opportunities is always going to be making sure such expenditures are done within the confines of an agency's budget. However, across the government, agencies are doing more with less, and I would follow this example if I am confirmed to be the Deputy Director of OPM.

24. Over one-third of all federal employees are, or will soon be, eligible to retire. It is important that agencies are prepared to lose these experienced employees without losing all of the knowledge and skills that they have developed over their careers. As OPM Deputy Director, how would you work with agencies to ensure they have succession plans in place that will help them face the upcoming wave of retirements?

If confirmed as Deputy Director, I will work with the CHCO Council to assist agencies in succession planning and highlight current tools available, such as phased retirement with its 20 percent mentoring requirement. Agencies also need to be able to recruit and retain top talent for vacant positions.

Workplace Flexibilities

25. **Congress has enacted a number of workforce flexibilities for agencies to use in the recruitment and retention of highly qualified applicants, such as category rating, student loan repayment programs, direct hire authority, and recruitment, retention and relocation bonuses.**

What do you believe to be the value of workplace flexibilities such as these and what is your opinion about how agencies are using them? Do you believe there are steps OPM should take in order to help agencies use workplace flexibilities more effectively? Do you believe that there are additional workforce flexibilities needed to help agencies build a modern workforce?

Workforce flexibilities, such as the 3Rs (recruitment, retention and relocation incentives), streamlined critical pay authority, and training opportunities, and workplace flexibilities, such as flexible work schedules, telework, and work-life programs, are essential to ensuring that an agency has the tools to recruit, retain, and properly manage their workforce.

As I mentioned in my response to question 23, I believe that hiring and pay flexibilities are essential to addressing the Federal government's workforce challenges and OPM is committed to working with agencies on using these tools.

Regarding workplace flexibilities, earlier this year the President issued a Memorandum tasking the Federal government to extend its record of leadership through better education and training, expanded availability of workplace flexibilities and work-life programs, and improved tracking of outcomes and accountability. These measures will help ensure that the Federal workforce is engaged and empowered to deliver exceptional and efficient service to the American public while meeting family and other obligations that exist outside of the workplace. Further, the Memorandum directs agencies to make employees aware, on a periodic basis, that they have the right to request work schedule flexibilities available to them under law without fear of retaliation.

I understand that OPM will be issuing guidance to Chief Human Capital Officers regarding the right to request work schedule flexibilities and will assist agencies with implementing their procedures. I believe OPM should work with agencies to provide education and guidance on workplace flexibilities and work-life programs to all employees, including managers; support agency efforts to develop training programs that educate these employees on the resources that are available to meet work-life needs; promote workplace cultures in which workplace flexibilities and work-life programs are standard; identify any arbitrary, unnecessary, or cultural barriers limiting use of workplace flexibilities; and review the Federal Employee Viewpoint Survey data for metrics on leadership support of, and employee satisfaction with, workplace flexibilities and work-life programs.

26. **Agencies often come to Congress seeking permission to gain flexibility for hiring purposes when OPM could have granted a waiver for the same. This has been seen especially in agencies seeking direct-hire authority.**

How do you believe OPM can work with agencies in being effective with the already established authorities? Are there any concerns about whether there are inconsistent authorities caused by agencies seeking out their own carve-out exceptions to the current hiring provisions?

I understand concerns agencies have expressed about the hiring process. Under this Administration, hiring reform has been implemented, which has reduced the time to hire. Hiring reform has also led to the elimination of KSAs and the refining of vacancy announcements, which have made the process of applying for Federal employment easier.

I believe one of the best things a Federal agency can do to speed up their job search process is to craft job search announcements that are clear about the qualifications and talent the agency is seeking. USA Staffing, out of OPM, equips users to develop and post attractive job opportunity announcements. OPM can also be used as a resource for agencies crafting their job announcements and, if confirmed, I plan to reach out to my agency partners to encourage them to take advantage of the expertise OPM can offer.

27. **Telework has become an increasingly important component of the federal government's efforts to create continuity of operations plans (COOPs) and to develop modern approaches to effective human capital management. Additionally, telework allows employees and managers flexibility to create work arrangements that are accommodating, boost employee morale, and increase trust and communication between employees and managers.**

What do you believe are the advantages and disadvantages of telework within federal agencies? Do you believe the program should be expanded or otherwise changed, and what would you do, as OPM Deputy Director, with respect to the telework program in federal agencies?

A growing number of agencies use telework as a tool for emergency preparedness and agency efficiency. The FEVS results show that 77 percent of Federal employees are satisfied with the Telework program in their agencies. Agencies should continue to develop and advance telework programs, as needed, and if confirmed, I will continue to assist with providing guidance to agencies in this area.

Compensation and Benefits

28. **What is your opinion about the General Schedule, and what improvements do you think are needed? What principles do you believe should guide any review and improvements of the General Schedule pay system and its implementation?**

The General Schedule (GS) system was established 65 years ago, and, as such, it could benefit from efforts to modernize it. The Administration recognizes concerns about the efficacy of the GS system, leading the President to call for the establishment of a Commission on Federal Public Service Reform, comprised of Members of Congress, representatives from the President's National Council on Federal Labor-Management Relations, members of the private sector, and academic experts, with the purpose of developing recommendations on reforms to modernize Federal personnel policies and practices within fiscal constraints and while preserving core ideals of the GS system, such as seeking to offer equal pay for work of equal value and requiring that any system of compensation be transparent and beneficial to the American taxpayer. I support the President in this effort.

29. **What is your opinion about the desirability and feasibility of extending the use of pay-for-performance in the federal government? How do think it could be done?**

I believe that issue should be examined by the President's proposed Commission on Civil Service Reform, which I discussed in the response to Question 28. Any change to the GS compensation system should be examined broadly by the greatest number of parties and experts with insights and possible equities in the system and taking into account the results from demonstration projects and various agency-specific programs established by statute. Any effort to move GS employees to a pay-for-performance system should also consider the impact it would have on the Federal government's ability to recruit top talent into its workforce and give equal pay for work of equal value. It is also important that geographic differences in Federal compensation systems are meaningful and that any system of compensation be transparent and beneficial to the American taxpayer. Furthermore, it is critical that any pay-for-performance system be supported by a performance measurement system that is trusted by managers and employees. Also, the budget implications of any new system would have to be carefully examined.

30. **Federal workers are granted high levels of workplace protections, and in some argue that it is too difficult to remove or punish deserving employees. Others argue that strong workplace protections are needed in the federal workforce to prevent politicization and cronyism and to shield appropriate whistleblowing and other forms of healthy disagreement, and that sufficient tools are provided under current law by which effective managers can hold employees accountable. Do you believe it is currently too difficult to hold federal employees accountable for poor performance or misconduct?**

Although we must uphold merit system principles and respect the rights of employees, consistently poor performance and instances of misconduct should be promptly addressed. There is a process in place to hold Federal employees accountable for poor performance or misconduct, including removal, where appropriate. The procedural steps are straightforward and not complicated: create performance standards, communicate expectations, measure the employee against those standards, and document when the employee fails to meet the standards and expectations. I believe if the available tools are

used appropriately and in a timely manner, managers and supervisors can hold employees accountable for performance and misconduct. Managers must have the skills and willingness to deal effectively with poor performers, and HR practitioners must be proactive and educate supervisors on their options. To aid in this effort, OPM provides electronic and written guidance, as well as classroom and web-based training specific to supervisors and managers. If confirmed, I look forward to working with our agency partners to determine what additional assistance OPM can provide in this area.

31. **A recent GAO report found that many government employees are granted paid administrative leave status for various reasons, and that the most common reason for relatively long periods of time was for personnel matters, such as while awaiting the outcome of investigations for alleged misconduct (GAO-15-79). Employees continue to be paid their full salary, receive health benefits, and contribute to their pensions while on administrative leave. GAO recommended that OPM should develop guidance for agencies and payroll providers regarding the recording and reporting of paid administrative leave, in order to improve the accuracy of data on paid administrative leave and to help agencies better manage the federal workforce.**

- A. As Deputy Director, how will you approach this issue? Do you believe further statutory or regulatory guidance is necessary to ensure paid leave is not abused and only used in warranted circumstances?**

Excused absence is not an entitlement, and agencies are not required to grant it. I do not believe further statutory or regulatory guidance is necessary to ensure excused absence is not abused. Excused absence is generally the tool of last resort. I believe supervisors should first try to find alternative work arrangements for the individual or use other flexibilities. Agencies and employees are encouraged to make maximum use of existing Federal human resources policies, such as work schedule changes, flexible hours and alternative work schedules, leave and other forms of paid time off, telework arrangements (especially to support a mobile workforce), and leave without pay. I believe OPM can better communicate when and how these tools should be used.

- B. According to the GAO report, there is currently no general statutory authority for the use of paid administrative leave. Do you believe additional legislation would be desirable to address administrative leave and guide its use?**

Excused absence is not officially authorized by law or OPM regulations but derives from the inherent authority for heads of departments and agencies to prescribe regulations for the government of their organizations. I do not believe additional legislation is necessary to address excused absence. OPM already advises granting excused absence only when the employee's absence, in the agency's determination, is not specifically prohibited by law and satisfies one or more criteria, which includes an assessment as to whether the absence is directly related to the agency's mission and whether the absence is determined to be in the interest of the agency or the Federal government.

32. **There have been many proposals for improving the Federal Employees Health Benefits Program (FEHBP). What do you think should be done either legislatively or administratively to improve the program?**

The President's Budget includes a proposal to modernize the FEHBP. The provisions in the proposal include expansion of plan types, increased contracting discretion, adding coverage for domestic partners, and allowing premium differentials tied to wellness. The proposal seeks to bring the FEHBP up to date with best practices of current health insurance plans offered by the private employers, and I support these proposals.

Equal Employment Opportunity

33. **How effective do you believe the federal government has been at avoiding discrimination and achieving equal employment opportunity in the civilian workforce? What more do you believe can and should be done in this area?**

There is always room for improvement in achieving equal employment in the civilian workforce. Diversity and inclusion is an important part of the President's and Director Archuleta's agenda. It is important to have a diverse and inclusive Federal workforce that reflects America. As mentioned, one measure of inclusiveness is the New IQ, which consists of 20 questions that are related to an inclusive environment in the FEVS. Agencies can use the information to better assess the inclusiveness of their workforce and make improvements, as needed.

Automation Efforts/Privacy/Security

34. **As the Federal Government's human resource agency, OPM administers retirement benefits for roughly 2.5 million Federal annuitants and processes over 100,000 new claims each year. OPM uses a system that is mostly paper-based. This processing system has a significant backlog that has left retirees waiting up to a year for their retirement paperwork to be processed.**

As OPM Deputy Director, what approach would you take to modernizing the federal retirement processing system? What would you do to continue to address the current retirement processing backlog? Do you believe implementing improved customer service standards at OPM would help minimize this retirement backlog?

Efforts are underway to modernize the retirement processing system. As Deputy Director, I would be involved in the implementation of OPM's Strategic IT Plan, which includes procurement of an electronic Case Management System (eCMS). OPM is preparing an acquisition strategy for the eCMS and hopes to acquire this technology soon. As of November 2014, the current Retirement Services claims inventory is 14,137 cases, with 83.2 percent of cases processed in 60 days or less. Retirement Services is in a steady state of claims processing – the claims inventory has been significantly reduced and the percent of cases processed within 60 days is increasing. Further IT enhancements will improve this process. I also believe implementing improved customer service standards

at OPM can reduce the backlog by increasing the number of online transactions and reducing the number of applicant errors.

35. **On October 11, 2011, OPM launched USAjobs 3.0, transferring the operation of the Federal employment website from Monster Worldwide, Inc. to the Federal government. What is your opinion of this website? What would you, as OPM Deputy Director, do to improve the website, both for those seeking federal jobs and the agencies seeking to fill vacant positions?**

USAJOBS is stable and running well. However, there is always room for improvement. OPM is constantly updating the website to be more user-friendly, and releases with new and updated functionality are updated every 9-12 weeks. The formal usability program affords OPM the opportunity to gain insight into end users' experiences with the website. In addition, USAJOBS collects feedback through its online surveys and ContactUs page to identify areas for improvement. OPM welcomes the continued exchange of ideas to make the job search process more effective. As technology changes, so will USAJOBS and the way the Federal government recruits candidates. I believe that OPM needs to improve outreach through social media and to diverse groups to ensure Federal positions on USAJOBS are accessible to a wide pool of candidates that reflect the best this nation has to offer. Positions on USAJOBS can be cross-advertised on Facebook, LinkedIn, and other social media platforms to expand the pool of possible applicants. This ensures no one is left behind when considering Federal employment. Also, the OPM Strategic IT plan calls for simplifying USAJOBS to make it easier for potential candidates to search and apply for open positions, and I support these efforts.

36. **As you know, OPM's FIS is responsible for conducting background checks for security clearances for federal employees and contractors. The security clearance process has been criticized for taking too long, but security and information leaks by employees or contractors with security clearances has also raised concerns about the adequacy of the background check process. What role do you think OPM can play in ensuring the process is both secure and timely? As OPM Deputy Director, how would you approach this issue?**

OPM actively works to meet applicable standards both for quality and timeliness. The quality goals established by OMB, OPM, the Office of the Director of National Intelligence (ODNI) and GAO in 2009 which rely on government agencies to assess the investigative quality during adjudication are being met. Although the 2009 interagency quality standard is to have fewer than 2 percent of investigations returned for rework, it is routine that less than 1 percent of OPM's investigations are returned, thus exceeding this particular goal. There is still work to be done, however, to develop standardized quality definitions for the Executive Branch. In line with GAO's recommendations, OPM is leveraging the successful partnerships that led to improved timeliness to further define an Executive Branch quality standard and accompanying measurement tool that can be applied during both the investigative and adjudicative reviews. These efforts are well underway and I look forward to assisting in these efforts moving forward.

37. **In recent years, certain federal agencies have experienced data breaches or had personally identifiable information compromised. Government data containing sensitive personal information is subject to a number of statutory requirements regarding privacy and data integrity, including the Privacy Act of 1974, the E-government Act of 2002, and the Federal Information Security Management Act. As the government's human resources agency, OPM is responsible for maintaining data and personally identifiable information on federal employees and annuitants.**

Please describe what steps you would take to address such federal privacy and security requirements and concerns regarding OPM records and systems.

Protecting data and personally identifiable information (PII) is a priority for OPM. OPM follows guidance from the Federal Information Security Management Act (FISMA) and OMB. OPM also manages its systems according to the National Institute of Standards and Technology's (NIST) Security Life Cycle. Additional steps to address Federal privacy and security requirements can be found in OPM's Strategic IT Plan: "We will work with OMB, NIST and others to ensure our information security policies are rigorous and cost effective based on a risk assessment methodology that considers both current and potential threats." If confirmed I would work to continue these efforts.

Improper Payments

38. **Congress passed The Improper Payments Elimination and Recovery Improvement Act of 2012 (P.L. 112-248) during the end of last Congress. This new law follows passage of the Improper Payments Elimination and Recovery Act of 2010 (P.L. 111-204). Both laws seek to identify, prevent, and recover the more than a hundred billion dollars in improper payments made by federal agencies each year.**

What steps is OPM taking or planning to take to improve the identification, prevention, and recovery of improper payments within its programs? Do you see opportunities for new initiatives and approaches to prevent improper payments from occurring? If so, please describe these initiatives and approaches.

The total amount of improper payments being made is a small fraction of payments made by OPM. But there is always room for improvement in identifying and stopping these improper payments. To identify changes in benefits and mitigate improper payments, OPM conducts several matches and annual surveys of beneficiaries. Anomalies identified in these matches and surveys are researched by OPM and, if needed, referred to the OIG. OPM also periodically investigates the status of retirees and survivors over the age of 90 to ensure their monthly annuity benefits are accurate and to identify unreported deaths. If confirmed as Deputy Director, I would help continue these efforts and work with the OPM IG to identify new ways to reduce improper payments even further.

IV. Relations with Congress

39. **Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?**

I do.

40. **Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?**

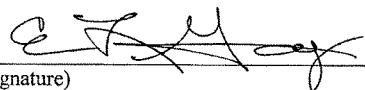
I do.

V. Assistance

41. **Are these answers your own? Have you consulted with OPM or any interested parties? If so, please indicate the individuals or entities with whom you have consulted, and the nature of the assistance they have provided.**

Although I have consulted with OPM regarding background information to use in responding to these questions, the answers are my own.

I, EARL L. GAY, hereby state that I have read the foregoing Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 10th day of NOV, 2014

**Post-Hearing Questions for the Record
Submitted to
Rear Admiral Earl L. Gay, USN, (Ret.)
By Senator Claire McCaskill**

**“Nomination Hearing for Rear Admiral Earl L. Gay, USN, (Ret.) to be Deputy Director,
Office of Personnel Management”
November 18, 2014**

There are currently over 1,000 positions in the Executive Branch that require Senate confirmation, including the Deputy Director of the Office of Personnel Management (OPM).¹ As you are well aware, all nominees face an extensive background check involving multiple executive branch entities, followed by a potentially long wait for a Senate committee to hold a hearing and confirmation vote. The full Senate then must devote precious floor time to each of these nominees. This process is at least partially responsible for the lack of leadership in key positions in executive branch agencies.

- 1) Do you believe that the position of Deputy Director for the Office of Personnel Management should be a Senate-confirmed position?

As you know, the 112th Congress passed and the President signed into law the Presidential Appointment Efficiency and Streamlining Act of 2011 (P.L. 112-166). This law removed the requirement of Senate approval for a number of presidentially appointed positions in Federal agencies and departments, however, the position of Deputy Director at the Office of Personnel Management was not included on this list.

If Congress should seek to take such action in the future, I would be happy to discuss this effort with Congress.

- 2) If you are confirmed, will you work with the Subcommittee to identify a list of Senate-confirmed positions that OPM believes should not require Senate confirmation?

If I am confirmed, I would be open to any discussions Congress may want to have on such an effort.

The Subcommittee on Financial and Contracting Oversight, which I chair, conducts oversight and investigations of federal spending through contracts and grants. At many agencies, federal contractors sit side by side with federal employees performing similar work. Given the magnitude of spending and the importance of the work performed by federal contractors and grantees, I was surprised to learn that many federal agencies refuse to permit agency witnesses to appear before Congress on the same panel of witnesses as a contractor or grantee. Although there may be legitimate reasons not to do so in certain circumstances, the blanket refusal to allow a federal official and an individual who is being paid by the federal agency the official represents

¹ Congressional Research Service, *Presidential Appointments, the Senate's Confirmation Process, and Changes Made in the 112th Congress* (Oct. 9, 2012) (R41872).

to sit together at a hearing makes it more difficult to conduct efficient and effective oversight. In addition, I believe that this policy no longer accurately reflects the way the federal government does business.

- 3) Absent extenuating circumstances, would you agree to testify on the same panel as individuals who receive federal contracts or grants at hearings on the management and oversight of federal spending? If not, please explain why not.

The practice of having executive branch officials testify on panels that exclude non-governmental private sector witnesses is one that the executive branch has worked to protect as an important reflection of comity between two co-equal branches of government. This practice also recognizes the differing nature of functions and responsibilities between private business entities and Federal agencies responsible for the execution of laws. While OPM and other agencies have made some exceptions to this practice in certain situations, the practice avoids the appearance problems that could be generated by government officials' messages being treated as equivalent to industry and other interested parties. However, I take seriously the role of congressional oversight. If confirmed, I agree to work with you and your staff to accommodate congressional requests and to further discuss this issue.

- 4) Absent extenuating circumstances, would you agree to make available any employee who reports to you to testify on the same panel as individuals who receive federal contracts or grants at hearings on the management and oversight of federal spending? If not, please explain why not.

See the response to question 3 above.

**Post-Hearing Questions for the Record
Submitted to
Rear Admiral Earl L. Gay, USN, (Ret.)
By Senator Jon Tester**

**“Nomination Hearing for Rear Admiral Earl L. Gay, USN, (Ret.) to be Deputy Director,
Office of Personnel Management”
November 18, 2014**

SECURITY CLEARANCE PROCESS

- What do you believe are the most pressing priorities for OPM-Federal Investigative Services right now?

I believe the most pressing priority right now for OPM-Federal Investigative Services (FIS) is what it has always been – maintaining the quality of OPM’s background investigations. There is no greater priority for the program, and if I am confirmed, this will be my top priority with regards to OPM FIS. Further, as the world around us continues to change, OPM FIS’s investigations must continue to be responsive in order to ensure that our investigations are rigorous and of the highest quality. This includes implementing the recommendations from the 120 Day Suitability and Security Review in concert with our agency partners. If I am confirmed as Deputy Director, I will make certain these efforts continue.

- What do you foresee will be some of the agency’s priorities in the long-term?

As I state above, the number one priority will be maintaining the quality of our investigations. Quality has always been OPM-FIS’s number one priority, and if I am confirmed, that priority will not waver during my watch. Other priorities include the priorities OPM-FIS has always emphasized – for instance, being vigilant to safeguard against new and emerging external threats; strengthening communication with customers and stakeholders; ensuring program cost and product price transparency; protecting the privacy of the individuals’ data with which we are entrusted; and exploring new ways to share information and encourage reciprocity.

TOO BIG TO FAIL

- How can OPM balance its workload of background investigations to avoid an overreliance on just one or two contractors?

OPM continually conducts market research to identify potential sources that can meet the Government’s needs in a competitive environment. Under OPM’s current fieldwork contracts, work is allocated among current contract companies after considerations are made regarding past performance and price. I believe such practices enhance the competitive environment within which our existing vendors for fieldwork services.

- How can we prevent another case of creating a background investigation contractor that is “too big to fail”?

OPM is diligent about ensuring a competitive environment in which its contracts are the best value for the American taxpayer, but also maintain the highest possible quality. OPM continues to evaluate strategies for increasing the efficiency and investigative capacity of its existing vendors, as well as to develop near and long term strategies to increase the numbers of sources available to provide this type of work. I support these efforts.

- Do you foresee OPM submitting a Request for Proposals to add additional Investigative Service Providers (ISPs)?

OPM is working to meet its present demands with the Federal and contract workforce already in place. It is, however, possible that OPM may seek and retain additional contractors in the future.

CONTINUOUS EVALUATION

- In your view, where should continuous monitoring, or continuous evaluation systems be housed?

Based on OPM's extensive operational experience related to background investigations, it is my view that OPM is well positioned to play a critical role in supporting the Office of the Director of National Intelligence's continuous evaluation objectives.

WORKFORCE RECRUITMENT AND RETENTION

- What do you think can be done to make the hiring process more efficient and timely?

This Administration has, through its efforts under Hiring Reform, made the simplification of the Federal hiring process a priority. This Administration has eliminated KSAs and made a transition towards resume-based hiring. This has led to a reduction of the Federal government's time to hire to under 90 days. Director Archuleta has made this a top priority as part of her strategy to recruit, engage and develop a skilled and talented workforce that reflects the country we serve. As part of this effort, OPM has expanded its work with our customers to help agencies ‘untie the knots’ in the hiring process. OPM has also prioritized strengthening training and education for hiring managers and Human Resource professionals to ensure that they are better able to navigate and administer hiring procedures and tools available to them. If I am confirmed, I look forward to continuing these efforts.

- How are hiring flexibilities currently used by agencies?

It is my understanding that hiring flexibilities are used by agencies, when necessary, in accordance with the statutes and regulations that govern such flexibilities.

- How would further agency education help these flexibilities to be utilized?

Each agency's hiring needs can be unique, and each agency must make their hiring decisions based in accordance with that agency's mission. OPM is an available resource to each agency to help them understand the tools that are available when agencies want to make a hiring decision, and OPM also helps agencies think about their workforce in terms of long-term strategic thinking.

However, agencies don't use these tools if they're not aware they exist. To promote awareness of what OPM has to offer, OPM reaches out through the Chief Human Capital Officers Council and through regular discussions with hiring managers, affected communities, and stakeholders. As part of the President's Management Agenda, OPM is working to expand training and education for hiring managers, including better use of online platforms to share best practices and answer common questions and problems. If confirmed, I plan to do my part to meet with agency officials and understand their questions and concerns so that OPM can improve its education and outreach efforts.

- Do you think agencies need additional recruiting authorities to compete for top young talent in the current job market?

The issue of attracting and recruiting more young people into the Federal government is a top priority for Director Archuleta. Under her leadership, OPM is developing new recruitment strategies that will help reach more diverse audiences, including young talent. This initiative includes expanding the use of social media, more data driven recruitment plans, and expanding relationships with key partners such as colleges and universities. Although I believe agencies and OPM have the necessary tools to recruit highly qualified individuals, I am open to discussing any suggestions Congress may have, if confirmed.

- What government-wide initiatives or policies are in place to address issues such as morale and job satisfaction rates within the federal workforce?

As Deputy Director, I will continue OPM's work with agencies to make sure they have the tools necessary to engage their workforce, which is an essential part of employee morale. OPM now provides agencies with more access to the Federal Employee Viewpoint Survey (FEVS) results through the UnlockTalent.gov dashboard, which provides a deeper dive into FEVS data sets. OPM works closely with the CHCO Council and Labor Management Council to identify and share best practices.

Within the Federal government, we view training and development as a key tool in ensuring that employees are fulfilled and engaged. Through the FEVS, OPM hears from employees that investing in their futures is considered important and OPM understands the importance of training and development. This is why OPM is implementing more development opportunities through HRU (a website that provides a catalog of courses designed to serve the needs of HR professionals in the Federal government) and GovU (an extension of HRU that seeks to enable agencies to share training and development resources to meet common needs). Further, OPM is seeking to create more opportunities

for innovation with programs such as the cross-government workforce agility program called GovConnect. The goal of these efforts is to create a culture of excellence by implementing new models of a skilled Federal workforce that is based on team collaboration while responding to mission demands.

**Post-Hearing Questions for the Record
Submitted to
Rear Admiral Earl L. Gay, USN, (Ret.)
By Senator Heidi Heitkamp**

**“Nomination Hearing for Rear Admiral Earl L. Gay, USN, (Ret.) to be Deputy Director,
Office of Personnel Management”
November 18, 2014**

1. As you are aware, North Dakota is experiencing remarkable growth due to the Bakken oil boom. However, this boom not only brings positive economic growth; it also causes several side effects for the citizens of my State. For instance, housing and rental prices in the cities of Williston and Dickinson are among the highest in the nation. In particular, Federal workforce wages have failed to keep up with private sector wages or the rapid increase in the cost of living. These challenges have made it difficult for Federal agencies to recruitment and retain critical employees in North Dakota. When newly recruited employees leave their position due to rent prices, or existing employees leave for higher paying private sector jobs, it becomes difficult for an agency to fulfill its mission critical duties.
 - If confirmed, what role will you play in providing leadership and direction to regions where Federal agencies are struggling to recruit and retain critical employees?

If confirmed, I will work to support the Director as she carries out OPM’s responsibilities under Title 5 of the United States Code. The Director has traveled the country to visit Federal employees to hear their concerns and views, and I hope to have similar opportunities. Additionally, OPM is leading efforts as part of the People and Culture pillar of the President’s Management Agenda on Hiring the Best Talent. This is in addition to the ways in which OPM regularly hears from agencies – through the Chief Human Capital Officers Council, through hiring managers, and through other stakeholders – about issues of concern. If confirmed, I will continue this communication by reaching out to human capital leaders across the Federal government in order to help them understand the variety of tools available to them in recruiting and retaining employees and to understand the human capital challenges they may face.

2. Over the past year, OPM assigned a staff member to the Department of the Interior in North Dakota to help support the agency in requesting Special Pay Rates for highly skilled energy related positions. This request was sent to OPM for approval on November 17, 2014. Although the support provided by OPM was a step in the right direction, there are still other Federal agencies across North Dakota dealing with the same challenges.
 - What additional steps can OPM take to address the continued challenges faced by other Federal agencies in North Dakota?

As you note, OPM has received a Special Rate Request from the Department of Interior that includes regions of North Dakota. I have been assured that OPM is making the review of this request a top priority.

OPM continually communicates with agencies in order to ensure that agencies are aware of the tools already at their disposal for addressing challenges they may face. In addition to Special Rate Requests, agencies may also use recruitment, relocation, and retention incentives; the Federal Student Loan Repayment Program; critical position pay; and General Schedule and Federal Wage System pay-setting flexibilities.

- If confirmed, what role will you play in approving Special Pay Rate requests?

If confirmed, I would work with the relevant program office staff to ensure that the review of this request is a top priority.

3. The civilian employees at the Minot Air Force Base (AFB) are faced with the same challenges as the rest of the Federal workforce in North Dakota. To address these issues, the Minot AFB submitted three Special Pay Rate requests for their civilian employees, as well as a locality pay increase request. The Special Pay requests have been approved by the Air Force, and are currently pending with the Department of Defense (DOD) for approval. I know OPM is diligently working with DOD to properly finalize these requests, so as to expedite the final approval process once formally submitted to OPM. In addition, I understand the requests may be broadened to include other Federal agencies beyond those employees at the Minot AFB.
 - What administrative steps can OPM take to ensure the original request is considered on an expedited timeline while also ensuring that all federal employees who should be included in the request are included?

OPM is available to provide guidance and advice to the Department of Defense (DoD) as they craft any Special Rate Request they may ultimately decide to submit to OPM. If DoD does submit a Special Rate Request to OPM, I am confident OPM will make the review of that request a top priority.

4. Although short-term incentives, such as Special Pay Rate requests, can help alleviate the challenges faced by the Federal workforce in the Bakken region, long-term solutions are still preferred. One such long-term solution is the approval of a Locality Pay increase for the Bakken region of North Dakota and Montana. However, current rules require that any Locality Pay region include at least 2,500 Federal workers. Due to the rural nature of the region, this threshold is unlikely to be met.
 - What flexibility can OPM implement to ensure that the Bakken region is properly considered for a Locality Pay increase?

Locality pay is authorized by Title 5 of the United States Code, which also provides for an advisory committee called the Federal Salary Council. The Federal Salary Council, as established by the President, submits annual recommendations on the locality pay program to the President's Pay Agent. The Federal Salary Council's recommendations cover the establishment or modification of pay localities, the coverage of salary surveys used to set locality pay, the process for making pay comparisons, and the level of comparability payments that should be made.

The President's Pay Agent consists of the Secretary of Labor and the Directors of the Office of Management and Budget and OPM. The Pay Agent considers the recommendations of the Federal Salary Council, defines locality pay areas, and submits an annual report to the President on the locality pay program. The report compares rates of pay under the General Schedule to non-Federal pay, identifies areas in which a pay disparity exists and specifies the size of the disparity, makes recommendations for locality rates, and includes the views of the Federal Salary Council.

Locality pay areas are defined based on metropolitan area definitions issued by the Office of Management and Budget. Implementing changes in locality pay area boundaries requires tentative approval by the Pay Agent, followed by the Pay Agent publishing a proposed rule in the Federal Register, considering comments received, and then publishing a final rule taking any information from the notice and comment period into account.

- If confirmed, what efforts are you willing to take to ensure that the Bakken region is included on the list of considerations for a Locality Pay increase by the President's Pay Agent?

I know Director Archuleta is aware of the concerns held by those in the Bakken region, and she is and has been available to help find solutions for those who claim they are facing challenges with recruitment or retention. I look forward to supporting the Director in these efforts.

5. The President's FY2014 and FY2015 budgets both contained proposals to alter the Federal Employee Health Benefits Program (FEHBP), and in previous communications Director Archuleta has indicated she is committed to updating the FEHBP. Among these proposals is expanded authority for OPM to contract with additional types of plans, such as Regional and Exclusive Preferred Provider Organizations (PPOs). The Director indicated the CBO and OPM used different assumptions in preparing projected savings of this change and committed to review the analysis.
 - If confirmed, how would you advance these efforts to modernize the FEHBP?

The proposal seeks to bring the FEHBP up to date with best practices of current health insurance plans. The proposal to include additional plan types within the FEHBP allows OPM to negotiate and contract with a greater variety of health plan types, such as regional PPOs. This will add a competitive model offered by other larger employers but not currently available under the FEHBP, which would reduce costs. If confirmed, I look forward to working with program office staff to modernize the FEHBP.

- What is the most recent budgetary impact estimate of introducing a new category of products and how do you think this will impact health care premiums and coverage for federal employees?

The proposal to offer regional plan types will attract different issuers that can offer more choices in the FEHBP. Cost savings are based on administrative efficiencies by spreading administrative costs over a larger base. The introduction of more choices will increase

competition leading to more choices for enrollees. The most recent CBO estimate on savings for OPM's modernization proposal is \$0.3 billion. OPM estimated savings at \$0.27 billion for the expansion of plan types.

**Post-Hearing Questions for the Record
Submitted to
Rear Admiral Earl L. Gay, USN, (Ret.)
By Senator Rob Portman**

**“Nomination Hearing for Rear Admiral Earl L. Gay, USN, (Ret.) to be Deputy Director,
Office of Personnel Management”
November 18, 2014**

In 2004, this Committee passed the Federal Employee Dental and Vision Benefits Enhancement Act, which was eventually enacted and assigned Public Law Number 108-496. This Act created the FEDVIP program to provide supplemental dental and vision benefits to Federal employees and retirees. In doing so, Congress specifically authorized OPM to include dental and vision discount programs and other low-cost options in addition to traditional dental and vision insurance plans. Yet, in the first round of FEDVIP offerings in 2005, OPM did not include any discount program options; only insurance plans were made available. In the following years, only about 25 percent of federal employees and retirees had enrolled in one of those insurance plans. Despite this fact and assurances from the then OPM Director that OPM intended to offer a broader range of choices and plan types in its second round of offerings in 2013, OPM again failed to include any discount programs in those offerings. This occurred even though a number of discount programs applied and met OPM’s criteria for inclusion.

In connection with her confirmation hearings, we asked Director Archuleta if she would review the decision not to include any discount programs in the 2013 FEDVIP offerings and brief the Committee on the results of her review. She agreed to do so. However, we have not yet been provided any briefing by the Director on this matter. As such, we have two questions as follows:

- Can you please inform us of the status of Director Archuleta’s review and when we can expect a briefing on why discount programs were not included in the new 2013 FEDVIP offerings?

It is my understanding that OPM held a competitive application process last year and applications were received from fully insured plans as well as discount plans. OPM reviewed each proposal against the criteria set forth in the application. Based on the review process, the panel selected the plans with the best value for the members. There were four vision and ten dental plans selected.

I have asked OPM’s Congressional, Legislative and Intergovernmental Affairs staff to contact your office to coordinate a briefing with the program office and your staff on this issue.

- Is OPM willing to exercise its authority to conduct a new competition or other process to facilitate the inclusion of discount program offerings in FEDVIP in the immediate future? If not, why not?

The law requires that contracts shall be for a uniform term of seven years. The new seven-year contract term began January 1, 2014.